
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain provisions made under powers contained in sections 7(6)(a) and 47(1) of the Mental Health (Wales) Measure 2010 (“the Measure”).

Section 6 of the Measure enables general practitioners to refer patients who are registered with them to a local mental health partner for the area where the patient is usually resident for a primary mental health assessment.

Section 7(6)(a) of the Measure gives Welsh Ministers the power to specify further categories of individual whom primary care providers may refer for a primary mental health assessment.

In reliance upon the power contained in section 7(6)(a) of the Measure, regulation 3(1) provides that a primary care provider may refer any person who is entitled to primary medical services provided under Part 4 of the National Health Service (Wales) Act 2006 for a primary mental health assessment if that person appears to be in need of such an assessment. The only exception to this is for categories of individual who fall within the descriptions set out in section 8(1) of the Measure which includes individuals liable to be detained under the Mental Health Act 1983 and individuals receiving secondary mental health services.

Regulation 3(2) provides that the primary care provider must, if it makes a referral for a primary mental health assessment, make the referral to the Local Health Board or the Local Authority for the local authority area where the primary care provider carries on the majority of its business or activities.

Regulation 3(1) is widely drafted to enable a primary care provider to make a referral in respect of any person who appears to be in need of a primary mental health assessment. Persons whom a primary care provider would be able to refer in accordance with regulation 3(1) would include persons from vulnerable groups such as asylum seekers, homeless persons; gypsies and travellers; prisoners; migrant workers and students. Regulation 3(1) also enables a primary care provider to refer persons who are not registered with his or her practice or to refer persons who are registered with another provider of primary medical services (or equivalent services) whether in Wales or elsewhere.

Section 47(1)(b) of the Measure gives Welsh Ministers the power to make regulations making provision about the eligibility of individuals to carry out primary mental health assessments under section 9 of the Measure.

Part 3 of the Regulations makes provision about the eligibility requirements that a person must meet before a person may carry out a primary mental health assessment. Professional requirements that a person must satisfy are set out in the Schedule.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a Regulatory Impact Assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy may be obtained from the Mental Health and Vulnerable Groups Division, Welsh Government, Cathays Park, CF10 3NQ.